

### **REMARKS / ARGUMENTS**

The present application includes pending claims 1-64, all of which have been rejected. Claims 1-6, 8, 10-14, 17-18, 20-21, and 25-26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over USPP 2004/0139180, (“White”). Claims 7, 9, 15-16, 19, 22-24, and 27-28 are rejected under 35 U.S.C. § 103(a) as being unpatentable over White as applied to claims 1-6, 8, 10-14, 17-18, 20-21, and 25-26 above, and further in view of USP 6,845,398 (“Galensky”). The Applicant respectfully traverses these rejections at least based on the following remarks.

#### **I. Examiner’s Response to Arguments**

With regard to the rejection of claim 1, the Examiner equates White’s (see Fig. 2) home media server 110, hub 120 and mobile media server 130 to Applicant’s “server”, “station” and “client”, respectively. The Examiner equates White’s mobile media server 130 coming within an operational range of the wireless hub 120, and synchronizing the mobile media server 130 with the home media server 110 via the wireless hub 120, to “accessing and downloading the media files stored in the media directories... **based on the particular location of the at least one client**” or “**only specific ones of the media files** are accessed from a particular one of the server directories,” as recited in Applicant’s claim 1.

The Applicant (see 8/19/09 response in page 22) argued that White discloses synchronizing and downloading all the available media files (i.e., **not “only specific ones** of the media files”) stored in the home media server 110 (the alleged “server”) to the mobile server 130 (the alleged “client”).

In the Final Office Action, the Examiner states the following arguments:

“On pages 18-20, Applicant argues that the examiner is misinterpreting the language “specific ones of the media file.” For support, Applicant cites a dictionary definition of “specific” that is “distinctive, definite.”

However, **when the media files are output**, the media files are “distinctive, definite,” meaning that **the media files are specific**. There is no requirement that the specific media files are predetermined, and **no detail of how the specific media files are selected**. Accordingly, as the current interpretation of the instant claim language is not contrary to the definition of “specific,” the rejection has been maintained.”

See Final Office Action in page 2 (emphasis added).

“... the instant claims provide no detail as to what entails “specific ones of the media files.” There is no requirement that the user selects specific media files, and only those media files are synchronized, or that the specific media files are somehow otherwise selected, and only those media files are synchronized. Accordingly, “only specific ones of the media files” can refer to the media files that are synchronized in White. Even if White synchronizes all media files, or a random set of media files, as media files are synchronized, **it can be said that specific media files were synchronized**, where the specific media files that **were synchronized are all of the media files**. Accordingly, only specific ones of the media files would have been synchronized.”

See Final Office Action in pages 21-22 (emphasis added).

The Examiner mainly argued three points. Namely, (1) when the media files are **output**, the media files are “distinctive, definite and specific”; (2) Applicant’s claim 1

does not specify **how** “specific ones of media files” are selected; and (3) synchronizing “**only specific ones** of media files” can be **all** the media files.

With respect to argument (1), the Applicant respectfully disagrees and points out that whether or not media files are being output is irrelevant for purposes of determining whether the media files are “distinctive, definite and specific”. More specifically, the files being “output” or “input” does not qualify the media files to be “distinctive, definite and specific”.

With respect to argument (2), the Applicant points out that the issue of “only specific ones” is not based on “how” the files are being accessed (i.e., as output or input) or downloaded. Instead, the issue is “how many” or “what portion” of the media files are being accessed or downloaded.

With respect to argument (3), the Examiner is referred to the plain meaning of the term “**only specific ones**”, which is defined in Webster’s New College Dictionary, third edition as follows: “only” is defined as “**without** anyone **else**”, and “specific” is defined as “distinctive and definite”. In other words, the term “**only specific ones**” refers to distinctive ones, without the rest (i.e., a subset of all).

Webster’s New College Dictionary, third edition defines the term “**all**” as “including **each** and **everyone**”. In other words, if **each** and **every** (i.e., “all”) output media file is accessed or downloaded from the directory, as alleged by the Examiner,

then none of the media files would need to be selected. In this regard, the Examiner's argument that "only specific ones" is the same as "all", is incorrect.

With regard to the rejection of claim 6, the Examiner states the following arguments:

"On pages 20-21, Applicant argues that the examiner is misinterpreting the term "portion." As support, Applicant provided a definition of the term "portion." As can be seen from the attached, a "portion" may be "a part of any whole, either separated from or integrated with it." Meanwhile, the term "part" may be a portion or division of a whole that is separate or distinct" or a "fraction." Thus, a **"portion" may be a "fraction of any whole."** Further, a person of ordinary skill in the art would recognize that **the number 1, or 1/1 is a fraction, meaning that the whole would constitute a part**, as well as any pieces of the whole that are smaller than the whole.

Further, Applicant's argument is irrelevant as claim 6 requires that the client is capable of performing the functionality with respect to "portions of the specific ones," which does not mean that the client is only performing the operation with respect to some of the media file and not the rest. Rather, even with Applicant's argued meaning of the language, the portion of the media file would have to be accessed, downloaded, and decoded in order to perform these operations with respect to the whole.

See Final Office Action in pages 2-3 (emphasis added). The Examiner agrees that **"portion" may be a "fraction of any whole"**. However, the Examiner alleges that 1/1 is a fraction, therefore, the whole number 1 is also an alleged "fraction" (i.e., the alleged "only specific ones" from all). The Applicant disagrees, and points out that although X/Y is a mathematical symbol to represent a fraction, nevertheless, **1/1 is an integer** (a whole number), **and an integer cannot be equated to a fraction**. In this regard, the Examiner's argument is incorrect in equating **"all"** or the "whole" specific

ones of the media files in the directory, to “**portion**” of the specific ones of the media files in the directory.

The Examiner further argues the following:

“...Applicant has provided no evidence or disclosure that specifically shows that **the word "entire" is, in fact, logically opposite to the meaning of "portion of."** As such, the interpretation of the term "portion," as currently applied stands. Even so, **there is no requirement that an amount less than the entire media file is accessed, downloaded, and decoded at a time.** The claim only requires that the client is able to perform these operations with respect to portions of the media file. As such, even if the claim required that the portion is less than the whole media file, the portion would still have the operation performed on it when the operation is performed with respect to the whole media file. Accordingly, Applicant should amend the claim to clearly require that less than the whole media file is accessed, downloaded, and decoded at a time.”

See Final Office Action in page 2 (emphasis added). The Applicant refers the Examiner to the above argument that the word “entire” cannot be equated to “portion of”. In this regard, it is irrelevant to further argue whether the two are logically opposite or not. In addition, Applicant’s claim 6 clearly recites “downloading and decoding **portions of ...the entire media files from the server directories.**” In this regard, it is not necessary to amend Applicant’s claim 6 to require that “less than the whole media file is accessed, downloaded, and decoded at a time.”

With regard to the rejection of claim 26, the Examiner states the following arguments:

“On page 21, Applicant argues the rejection of claim 26. However, it is noted that the language of "automatically" is only associated with

"accessing," thus Applicant arguing the term "automatically" with relation to the "removing" is clearly spurious."

See Final Office Action in page 3 (emphasis added). The Applicant points out that White does not disclose that the accessing functionality relates to "specific ones" of the media files. In this regard, claim 26 should still be allowable.

With regard to the rejection of claim 29, the Examiner states the following arguments:

"On pages 22-23, Applicant argues that the examiner utilized impermissible hindsight reasoning. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But **so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure**, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971 )."

The Applicant (in the 8/19/09 response) argued White discloses using a home media server 110 to store the media files in a home location. White, at best, discloses or suggests that the media files be stored in only a general home location for media files synchronization. **White, however, does not differentiate that the stored media files are based on the particular locations of the mobile server 130.**

Based on the foregoing rationale, and contrary to the Examiner's allegation, White does not show any motivation to suggest storing any media files in directories based on any particular locations of the mobile media server 130, when the mobile

media server 130 moves to another location of the home within the range of the hub 120. The Examiner's Official Notice alleges knowledge that is both unsupported by White's disclosure, and is also contrary to White's teaching. In this regard, the Applicant maintains that the Examiner's suggestions are reconstructed based on Applicant's claim, thus constitute an improper hindsight reasoning (see MPEP §2145 X-A). Claim 29 is submitted to be allowable.

The Examiner has rejected Applicant's other claims of similar features based on repeating certain Official Notice arguments. The Applicant maintains that the traversal arguments to Official Notice in claims 1, 6, 26 and 29 are applicable to all the affected pending independent and/or dependent claims.

### **REJECTION UNDER 35 U.S.C. § 103**

In order for a *prima facie* case of obviousness to be established, the Manual of Patent Examining Procedure, Rev. 6, Sep. 2007 ("MPEP") states the following:

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."

See the MPEP at § 2142, citing *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), and *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d at 1396

(quoting Federal Circuit statement with approval). Further, MPEP § 2143.01 states that “the mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art” (citing *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007)). Additionally, if a *prima facie* case of obviousness is not established, the Applicant is under no obligation to submit evidence of nonobviousness:

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

See MPEP at § 2142.

## **II. White Does Not Render Claims 1-6, 8, 10-14, 17-18, 20-21, 25-26, 39-44, 46, 48-52 and 55-64 Unpatentable**

The Applicant now turns to the rejection of claims 1-6, 8, 10-14, 17-18, 20-21, 25-26, 39-44, 46, 48-52 and 55-64 as being unpatentable over White.

### **A. Independent Claims 1, 20 and 39**

With regard to the rejection of independent claim 1 under 103(a), the Applicant submits that White does not disclose or suggest at least the limitation of “accessing and downloading the media files ... wherein **the media files are stored in one or more directories of the server based on particular locations of the at least one client, and only specific ones of the media files are accessed from a particular one or more of the server directories**, and downloaded by the at least one client **based on**



**the particular location of the at least one client,”** as recited in Applicant’s

independent claim 1. The Final Office Action states the following:

“With regard to claim 1, White discloses a system for wirelessly playing media files, the system comprising:

a server having a memory for storing the media files (White: Figure 2, 110); a station connected to the central server (White: Figure 2, 120); at least one client, the client capable of accessing and downloading the files by wirelessly communicating with the server via the station from a plurality of remote locations from the station and the server (White: Figure 2, 130 and Paragraph [0014]. The mobile media server (130) is capable of accessing and downloading the files through the wireless hub anywhere within range of the wireless hub. As the mobile media server can be anywhere within range of the hub, this constitutes a plurality of locations.), wherein only specific ones of the media files are accessed and downloaded by the at least one client based on a particular location of the at least one, client (White: Abstract. The media files are only downloaded when the client is in range of the server, meaning that the access and download is based on a particular location).

White does not disclose expressly a plurality of devices capable of outputting the specific ones of the media files, wherein the at least one client operably connects to the devices. However, **Examiner takes Official Notice (See MPEP §2144.03) that this functionality was well known by a person of ordinary skill in the art.”**

See Final Office Action at pages 4-5. The Examiner relies on Official Notice to reject Applicant’s claim 1. The Applicant maintains the arguments stated in the 11/6/08 and 8/19/10 responses. Namely, even though White discloses that the mobile media server 130 can access and download files through the wireless hub 120 within range of the wireless hub 120, **White still does not differentiate that the stored media files are based on the particular locations of the mobile server 130, let alone storing specific ones of the media files in directories based on particular locations of the**

**mobile media server 130, when the mobile media server 130 moves to another location of the home within the range of the hub 120.**

On the contrary, White in the Abstract discloses clearly a two way synchronization, which automatically provides “**the same media on both the home media server 110 and the mobile media server 130**”, which is non-specific. In other words, White does not disclose any restriction for the accessibility of the available media files for downloading.

Furthermore, the Examiner is referred to Applicant’s arguments in section I above. Namely, White’s disclosure of synchronizing the **entire** collection of media files reads on Applicant’s “**only specific ones** of the media files”, is incorrect and, in fact, contrary to Applicant’s claim 1.

Moreover, the Examiner concedes the following in the Final Office Action:

“However, White does not disclose expressly that the media files are stored in one or more directories of the server based on the particular locations of the at least one client or that the files are accessed from a particular one of the one or more server directories.

However, French discloses a system where files are stored based on the userid associated with the device (French: Column 5, Lines 25-34).”

See Final Office Action at page 5. The Examiner alleges that French discloses that “the media files are stored in one or more directories of the server based on particular **locations of the** at least one **client**”. Specifically, the Examiner relies for support on the following citation of French:

“The second column 204 of user-specific mapping table 120a contains the corresponding **location of the files specified by name or directory path** in column 202. The files may be **located on either a server or the user unit**. When the client file system requests a file within **a mapped directory path and/or filename**, the requested file is obtained from the user-specific **location on the server** rather than from the drive specified. Each user will have a different directory, preferably based on the specific userid of that user, such as a directory path including the userid.”.

See French at col. 5, lines 25-34 (emphasis added). The Examiner equates French’s **“location of stored file in the directory”**, which is mapped to a directory path name, to Applicant’s “media files stored in the **directories of the server, based on the location of the client**”. The Applicant respectfully disagrees. The Examiner seems to incorrectly equate Applicant’s directories location in the server, which is based on the (physical) **“location of the client”**, to French’s user directory location, which is mapped to a **path name** in the server. In other words, the Final Office Action has incorrectly equated the physical location of the client user (who downloads or accesses his directories) to French’s directory path name.

Based on the foregoing rationale, the Applicant maintains that White does not disclose or suggest “accessing and downloading the media files ... wherein the media files are stored in one or more directories of the server based on particular locations of the at least one client, and only specific ones of the media files are accessed from a particular one or more of the server directories, and downloaded by the at least one client based on the particular location of the at least one client,” as recited in Applicant’s independent claim 1. The Applicant submits that claim 1 is allowable.

Independent claims 20 and 39 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 20 and 39 are also allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

**B. Rejection of Dependent Claims 2-6, 8, 10-14, 17-18, 21, 25-26, 40-44, 46, 48-52 and 55-64**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 20 and 39 under 35 U.S.C. § 103(a) as being unpatentable over White has been overcome and requests that the rejection be withdrawn. Additionally, claims 2-6, 8, 10-14, 17-18, 21, 25-26, 40-44, 46, 48-52 and 55-64 depend from independent claims 1, 20 and 39, respectively, and are, consequently, also respectfully submitted to be allowable.

Regarding the rejection of claim 6, the Applicant maintains the arguments in the 11/6/08 and 8/19/09 responses. The Examiner is further referred to Applicant's above arguments in section I, namely, White's disclosure of downloading and decoding "**entire**" media file cannot be equated to Applicant's claimed "**portions of** a media file".

Therefore, based on the foregoing rationale, the Applicant maintains that White does not disclose or suggest "downloading and decoding **portions of the specific ones of the** media files," as recited in claim 6 by the Applicant.

Claim 21 is submitted to be allowable for the same rationale as discussed with respect to claim 6.

Regarding the rejection of claim 26, the Examiner is referred to the arguments in the 11/6/08 and 8/19/09 responses. The Examiner is further referred to Applicant's above arguments in section I, namely, White's two-way synchronization would not have taken place if there is a lack of memory space in the mobile server 130 in the car. The Examiner argues that White would have suggested that the user could erase the files (manually) to allow more memories for downloading. White, however, does not disclose any accessing of "specific ones" of the media files. In this regard, claim 26 should still be allowable.

Regarding the rejection of claim 29, the Examiner is referred to the arguments in the 11/6/08 and 8/19/09 responses. Namely, White's "synchronizing the mobile media server with a set of media ...simply have the set of media being **all the media** in a specific directory," clearly implies that **all the media files between the mobile server 130 and the home media server 110 will be synchronized and copied without any exception**. In this regard, White does not suggest or disclose Applicant's "the **specific ones of the media files** are accessed and downloaded **from a specified directory on the server ...**," as recited in claim 29.

The Examiner is further referred to Applicant's above arguments in section I, namely, White discloses using a home media server 110 to store the media files **in a home location**. White at best discloses or suggests that the media files be stored in only a general home location for media files synchronization, **White does not**

**differentiate that the stored media files are based on the particular locations of the mobile server 130.**

Based on the foregoing rationale and contrary to the Examiner's allegation, White does not show any motivation to suggest storing any media files in directories based on any particular locations of the mobile media server 130, when the mobile media server 130 moves to another location of the home within the range of the hub 120. The Examiner's Official Notice alleges knowledge that is both unsupported by White's disclosure, and also contrary to White's teaching. In this regard, the Applicant maintains that the Examiner's suggestions are reconstructed based on Applicant's claim, thus constitute an improper hindsight reasoning (see MPEP §2145 X-A). Claim 29 is submitted to be allowable.

Regarding the rejection of claim 33, the same rationale as claim 29 applies, namely, White does not differentiate that the stored media files are based on the particular locations of the mobile server 130, let alone storing specific ones of the media files **in directories based on particular locations of the mobile media server 130**. When the mobile media server 130 moves to another location, White does not disclose that the mobile media server 130 only accesses or downloads the directories based on the new location. Likewise, as argued in claim 29, the Examiner's suggestion that White could be modified to store a media file table or in a specific directory based on particular location, is a reconstruction based on hindsight. Claim 33 is submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 2-6, 8, 10-14, 17-18, 21, 25-26, 40-44, 46, 48-52 and 55-64.

**III. The Proposed Combination of White and Galensky Does Not Render Claims 7, 9, 15-16, 19, 22-24, 27-28, 45, 47 and 53-54 Unpatentable**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 20 and 39 under 35 U.S.C. § 103(a) as being unpatentable over White has been overcome and requests that the rejection be withdrawn. Additionally, the additional cited reference (Galensky) does not overcome the deficiencies of White in independent claims 1, 20 and 39. Claims 7, 9, 15-16, 19, 22-24, 27-28, 45, 47 and 53-54 depend from independent claims 1, 20 and 39, and are, consequently, also respectfully submitted to be allowable at least for the reasons stated above with regard to allowability of claim 1. The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 7, 9, 15-16, 19, 22-24, 27-28, 45, 47 and 53-54.

In general, the Final Office Action makes various statements regarding claims 1-64 and the cited reference that are now moot in light of the above. Thus, the Applicant will not address such statements at the present time. However, the Applicant expressly reserves the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

**CONCLUSION**

Based on at least the foregoing, the Applicant believes that all claims 1-64 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Patent Agent at (312) 775-8093.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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